For the Northern District of California

NOT FOR CITATION IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRIAN SUM,) No. C 09-02623 JF (PR)
Petitioner,	
VS.	ORDER OF TRANSFER
NORTHERN DISTRICT OF CALIFORNIA,	
Respondent.	
)

Petitioner, a state prisoner currently incarcerated at the California State Prison, Substance Abuse Treatment Facility in Corcoran, California, proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state conviction in the San Joaquin County Superior Court.

A state prisoner challenging the constitutionality of his state conviction may do so by filing a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Venue for a habeas action is proper in either the district of confinement or the district of conviction, 28 U.S.C. § 2241(d); however, petitions challenging a conviction are preferably heard in the district of conviction. See Habeas L.R. 2254-3(a); Laue v.

Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968); cf. Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (district of confinement best forum to review execution of sentence).

Accordingly, this case is TRANSFERRED to the United States District Court for the Eastern District of California. See 28 U.S.C. §§ 84(b), 1391(b), 1404(a); Habeas L.R. 2254-3(b)(1). The Court notes that Petitioner paid the filing fee in an earlier filed action, Case Number 09-00523 JF (PR), which was dismissed for failure to file a petition in the time provided. It appears that the petition which Petitioner intended to file in the earlier case was opened as this separate action.

The Clerk shall transfer the entire file to the Eastern District of California.

IT IS SO ORDERED.

10/2/09 DATED:

United States District Judge

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA

BRIAN SUM,	Case Number: CV09-02623 JF
Petitioner,	CERTIFICATE OF SERVICE
v.	
NORTHERN DISTRICT OF CALIFOR	NIA,
Respondent.	
I, the undersigned, hereby certify that I a Court, Northern District of California.	am an employee in the Office of the Clerk, U.S. District
That on 10/7/09 attached, by placing said copy(ies) in a phereinafter listed, by depositing said envaninter-office delivery receptacle locate	, I SERVED a true and correct copy(ies) of the postage paid envelope addressed to the person(s) relope in the U.S. Mail, or by placing said copy(ies) into d in the Clerk's office.
Brian Sum F-20945 CSP-SATF IV Substance Abuse Treatment Facility P.O. Box 5246; C-5; Cell-132 Corcoran, CA 93212	
Dated:	Richard W. Wieking, Clerk